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REPORT ON HOUSE BILL 303  
(First Reading File Bill)

ELECTRICIANS' LAWS

I. GENERAL HISTORY OF THE REVISION.

As part of a continuing revision of the Annotated Code of Maryland by the Division of Statutory Revision of the Department of Legislative Reference, 16 revised articles and part of a 17th have become law: Agriculture, Commercial Law, Corporations and Associations, Courts and Judicial Proceedings, Education, Estates and Trusts, Family Law, Financial Institutions, Health--Environmental (now Environment), Health--General, Health Occupations, Natural Resources, Real Property, State Government, Tax--Property, Transportation, and the State Finance Division of State Finance and Procurement. Revisions of the Procurement Division (House Bill 1) and of the Tax-General Article (Senate Bill 1) are now pending. All of these articles have been prepared in accordance with the mandate of the Division, to rewrite the laws in a more organized, concise, and readable manner, without making substantive changes. The objective is to clarify the existing laws, but not to change their legal effect.

As part of the ongoing revision, the Division of Statutory Revision of the Department of Legislative Reference reviewed those laws proposed for inclusion in a Business Occupations Article. The problems inherent in the laws governing electricians, plumbing, and real estate brokers could not be resolved in routine nonsubstantive revision, because of the numerous gaps, inconsistencies, and ambiguities in those laws. Therefore, a Joint Subcommittee on the Business Occupations Article, comprised of members of the Senate Economic and Environmental Affairs Committee and the House Economic Matters Committee, was appointed to consider and to develop substantive legislation to address the substantive problems. The members of the Joint Subcommittee are Senator Gerald W. Winegrad and Delegate Joseph V. Lutz, as Co-chairmen, and Senators Michael Collins, John Derr, S. Frank Shore, and Delegates Hattie N. Harrison, George H. Littrell, Jr., and Lawrence Wiser.

## Electricians

The Joint Subcommittee undertook to address the electricians laws by careful review of a draft revision of the existing laws in which were noted, e.g., provisions that were inconsistent either with other laws relating to electricians or to business occupations generally, provisions that were obsolete, provisions that were impracticable to apply, and provisions that were at variance with practice in the industry. The absence of provisions that generally appear in laws governing business occupations also was noted. It is a precept that similar provisions should be stated in the same way every time. This is particularly true as to provisions that relate to licensing. To that end, therefore, provisions of the existing law that were retained and new provisions that were added have been conformed to the language and organization of revised articles.

During the 1987 interim, the Joint Subcommittee met almost weekly to consider the laws relating to electricians, plumbing, and real estate brokers. Five of the meetings concerned the electricians' laws.

At these meetings, numerous helpful comments were provided by interested parties, including Jonathan Acton, II, from the Attorney General's Office, Ron Brown of the Maryland Board of Master Electricians, W. Miles Cole of the Maryland Association of Counties, James Combs for Local #307, International Brotherhood of Electrical Workers, Margareta Crampton for the AFL-CIO, Charles Cronauer for the Maryland State Fire Marshal, G. Thomas Dick, Chief Electrical Inspector of Harford County, Thomas Dixon for the Electric League of Maryland, Judith Donaldson from the Department of Licensing and Regulation, Michael Dorsey of the Washington Building and Construction Trades Council, Roy Ford of the Howard County Board of Electrical Examiners, David Jones of the Howard County Board of Electrical Examiners, Bob Lewis for Local #26, International Brotherhood of Electrical Workers, William P. Kaczorowski for the Baltimore Building and Construction Trades Council, Edward Mohler for the AFL-CIO, G. Don Murry, Sr., of the Electric League of Maryland, Joseph Prestianni for Local #24, International Brotherhood of Electrical Workers, Donald L. Stegner of the Maryland Board of Master Electricians, and Gil Thompson of the Electrical Administrative Board of Baltimore County.

Copies of each draft revision were distributed to representatives of each county electricians board, as well as labor unions and management organizations. Also, the staff replied to questions and comments posed by interested persons and consulted closely with the State Board of Master Electricians and other officials of the Department of Licensing and Regulation.

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### II. COMMITTEE COMMENTS.

In nonsubstantive revisions, revisor's notes provide a link between the current and revised law, by explaining, in detail, their relationship. Each section -- or, in some instances, subsection -- of the revised law would be followed by a revisor's note that identifies the present law that the new section or subsection replaces. These revisor's notes also explain all significant changes made in the revision process. Although not part of the law, revisor's notes serve an important function in preserving the intent and substance of the present law. In Murray v. State, 27 Md. App. 404 (1975), the Court of Special Appeals recognized the importance of revisor's notes not only as a statement of the revisor's intent, but as a statement of legislative intent as well:

"These notes were part of the legislation enacting the revisions explaining to the legislators not only what changes were effected but what their expressed intention was in changing the wording." Murray v. State, 27 Md. App. at 409 (Emphasis in original).

The Committee Comments in House Bill 303 are drafted to serve the same purpose. In light of their importance as recognizable elements of legislative history, the Committee Comments in the third reading file bill will differ from those in the first reading file bill as little as practicable. Additional minor changes also may be made in them before publication.

In some instances, comments may be rendered obsolete by separate legislation enacted during this Session. The Division staff will update these comments, which the Michie Company will publish under the heading of "Special Committee Comments".

### III. STRUCTURE OF HOUSE BILL 303.

House Bill 303 proposes creation of Article 56A -- Miscellaneous Business Occupations, pending the anticipated enactment of the revised Business Occupations Article during the 1989 Session. Article 56A would include the Joint Subcommittee's proposed revision of the electricians laws (House Bill 303), plumbing laws (House Bill 302), and real estate brokers laws (Senate Bill 201).

Each of these bills contains a Title 1, which includes definitions and provisions generally applicable to all three occupations.

## Electricians

### IV. LIST OF SIGNIFICANT CHANGES FOR ELECTRICIANS LAWS.

While almost every section of the revised Title 2 involves an extensive revision of the current law, the majority of the changes would be considered routine under a normal nonsubstantive revision prepared by the Division. The following sets forth a general summary of those points that merit special attention by the General Assembly.

This list is based on a comparison of the current electricians' law (Art. 56, §§ 320 through 322 and 530 through 542A of the Code) and House Bill 303. References to House Bill 303 are to the First Reading File Copy.

#### 1. Terminology.

House Bill 303 would rename the "Statewide Master Electrical Licensing Board" as the "State Board of Master Electricians. See page 10, line 1 and the Committee Comment at lines 2 through 15.

#### 2. Exemptions (2-104).

Art. 56, § 451(4) and (5) makes the current law inapplicable to persons supplying or furnishing electrical material or equipment. House Bill 303 would restate these exemptions to clarify the apparent intent to preclude requiring a State license for activities that could be regarded as providing electrical services, but are not so treated by local jurisdictions. See page 13, lines 17 through 20, and the Committee Comment at lines 21 through 31.

#### 3. Membership of Board (2-202).

Art. 56, § 532(c) limits a member to 1 full term. House Bill 303 would allow 2 full consecutive terms. See page 15, lines 35 and 36, and the Committee Comment at page 16, lines 18 through 21.

#### 4. Officers (2-203(b)(1)).

Standard language would provide for officers of the State Board to be elected as provided by the State Board. See page 18, lines 1 and 2, and the Committee Comment at lines 8 through 10.

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### 5. Miscellaneous Duty (2-205).

Art. 56, § 533(c)(1), which allows the State Board to establish industry standards, is proposed for deletion as meaningless since the State Board has no general rulemaking authority and, therefore, cannot implement this authority. See the Committee Comment on page 19 at lines 42 through 46.

### 6. Enforcement powers (2-206(a)).

Art. 56, § 533(f) and (h)(1) confers overlapping authority to take testimony on the Board, its members, and hearing examiners or designees. Since individual Board members do not conduct hearings, the House Bill 303 refers to the "State Board or a hearing officer whom the State Board designates". See page 20, lines 11 through 12, and the Committee Comment at page 21, lines 18 through 28.

The means by which testimony may be taken would be expanded. See page 20, line 16, and the Committee Comment on page 21, at lines 33 through 35.

### 7. Injunctive powers (2-206(c)).

Although Art. 56, § 533(g) currently gives the Board the power to seek injunctions, that power presumably is limited by the power of a court to deny an injunction if the adverse party shows that there is property from which damages can be made. See Md. R. BB76. House Bill 303 would remove this limitation. See page 20, lines 37 and 39, and the Committee Comment at page 21, lines 13 through 17.

Furthermore, the Board would be allowed to seek an injunction if "any person" will suffer irreparable harm. Currently, a "citizen of this State" must be harmed. See page 20, lines 27 through 31, and the Committee Comment at page 21, lines 40 through 43.

### 8. Local licensing regulations (2-301 and 2-302).

Under current law, a county may allow unlicensed individuals to provide electrical services and, in fact, Somerset and Garrett Counties do so. Outside of Allegany County, the State license merely facilitates obtaining any requisite local license. House Bill 303 would require all counties either to adopt local licensing laws or to require a State license to provide electrical services as a master electrician. See page 23, lines 1 through 10, and the Committee Comment at lines 11 through 20. The function of the State license would be stated expressly. See page 23, lines 21 through 34, and the Committee Comment beginning at line 35 on page 23 through line 8 on page 24.

## Electricians

### **9. License exception (2-303).**

The Current law lacks a clear statement about the relationship of a licensee to an individual who provides electrical services while under the supervision of the licensee and about the responsibility of the licensee for the electrical work supervised by the licensee. House Bill 303 would fill these gaps. See page 24, lines 21 through 31, and the Committee Comment at page 25, lines 8 through 30.

The current law provides an exemption for public utility companies. House Bill 303 would add an exemption for employees of those companies. See page 25, at lines 1 through 7, and the Committee Comment, at lines 33 through 36.

### **10. Qualifications of applicants (2-304).**

Art. 56, § 534 seems to allow the Board to credit an applicant for a State license with not more than 3 years of experience gained under the direction and supervision of a master electrician employed by a government unit. House Bill 303 would allow the Board to credit an applicant with up to 7 years of this experience. See page 26, lines 1 through 13, and the Committee Comment at lines 32 through 39.

### **11. Applications for State licenses (2-305).**

Art. 56, § 534 requires the filing of applications at least 45 days before the day of the examination but does not impose a deadline for the payment of the application fee. House Bill 303 would make the 45-day limit applicable to payment of the fee. See page 27, lines 27 through 32, and the Committee Comment beginning at line 36 on page 27 through 3 on page 28.

### **12. Examinations (2-306).**

House Bill 303 would limit the right to examine examination papers to applicants who fail. See page 29, lines 13 and 14, and the Committee Comment at lines 38 and 39.

House Bill 303 would clarify that, absent a change in qualifications, an applicant for reexamination need not resubmit the full application but, instead, may use a form provided by the Board. See page 29, lines 16 through 18, and the Committee Comment at page 30, lines 1 through 11.

**13. Waiver of examination requirements (2-307).**

The current law provides for State recognition of local licenses. In implementing the current law, the Board has asked local jurisdictions to certify information about the licensee. House Bill 303 would codify this practice. See beginning at line 41, on page 30 through line 6 on page 31, and the Committee Comment at page 31, lines 18 through 21.

House Bill 303 also would require an individual who obtains a State license by a waiver of examination requirements continually to maintain that license. If an individual fails to do so, the State Board would not reinstate the license and, if the individual wishes another one, all the requirements for licensing, including examination, would have to be met. See page 31, lines 8 and 9, and the Committee Comment at lines 22 through 28.

**14. Renewal of licenses (2-310).**

House Bill 303 sets forth requirements for and mechanics of license renewal in greater detail than in current law. For example, § 2-310(b) would require the Board to notify licensees that licenses are due to expire, while § 2-310(c)(1) would require the licensee not only to pay the renewal fee but to be "otherwise ... entitled to" the license. See beginning at line 34 on page 35 through line 9 on page 36 and the Committee Comment on page 36, lines 20 through 23 and 33 and 34.

**15. Inactive status (2-311).**

House Bill 303 would clarify the procedures and requirements for and effect of placing a license on inactive status. See beginning at line 27 on page 37 through line 18 on page 39 and the Committee Comment beginning at line 19 on page 39 through line 43 on page 40. Except for the requirement for fees, the inactive status provisions would apply to electrical inspectors, who, under the current law and the revision, must place their licenses on inactive status. See page 42, lines 20 through 38, and the Committee Comment at page 43, lines 10 through 13.

**16. Disciplinary grounds (2-316 and 2-317).**

House Bill 303 would add new grounds for disciplinary action. They are fraudulent or deceptive use of or attempt to obtain a license (2-316(2) and (1), respectively); failure to have a local license (2-316(10)); and failure to maintain liability insurance (2-316(11)). See page 44, lines 26 through 29, and page 45, lines 8 through 11, and the Committee Comment at lines 21 through 38.

The powers to deny a license or reprimand a licensee are stated expressly (2-316(a)), subject to the hearing requirements. See page 44, lines 22 through 25, and the Committee Comment beginning at line 39 on page 45 through line 5 on page 46, and lines 18 through 28 on page 47.

The Board would be given express authority to proceed, on the basis of any grounds, against any individual who fails or refuses to appear at a disciplinary hearing after notice. See on page 47, lines 1 through 4, and the Committee Comment at lines 9 through 12.

An express statement of the right to judicial review is added. See page 48, lines 1 through 4, and the Committee Comment at lines 5 through 15.

**17. Assignment of local licenses (Subtitle 4).**

Current Art. 56, §§ 531(c) and (d) and 535 establish a mechanism by which an individual may assign a State license to a firm or corporation that employs the individual as a "qualified agent".

House Bill 303 would provide, instead, for the assignment of a local license. The Joint Subcommittee believed that an assignment is meaningful only when the license assigned is a local license, since State license is only a mechanism for obtaining a local license and, outside of Allegany County, provides no right to provide electrical services.

House Bill 303 also reflects the belief of the Joint Subcommittee that local jurisdictions, rather than the State Board, should have responsibility for determining whether a master electrician who assigns a local license to a person is "principally employed" by that person.

Similarly, the Subcommittee believed that the issue of the continuation of a business providing electrical services should be left to the local jurisdiction where the licensee is employed and, therefore, Art. 56, § 540(h), which allows for continuation of a business after the death of the State licensee, is proposed for deletion.

However, House Bill 303 would ensure that the State Board and local jurisdictions are apprised of assignments of local licenses. See beginning at line 25 on page 49 through line 17 on page 53. See also page 34, lines 11 through 16.

**18. Electrical permits (2-603).**

Current Art. 56, § 540(e) sets requirements for issuance of a permit. House Bill 303 would expand those requirements to include, e.g., proof of local licensure, if required, and payment of the fee. House Bill 303 also would require local jurisdictions to apprise the licensee of local electrical requirements. See page 62, lines 1 through 21, and the Committee Comment at lines 22 through 31.

**19. Insurance (2-604).**

House Bill 303 would expressly prohibit issuance of a State license absent compliance with the insurance requirement. See page 63, lines 11 through 13, and the Committee Comment at lines 33 and 34. House Bill 303 also reflects that the State Board currently does not require proof of insurance when a license is renewed but, rather, when the insurance expires. See page 63, lines 14 through 18, and the Committee Comment beginning at line 35 on page 63 through line 12 on page 64.

House Bill 303 would impose on insurers the duty to notify the State Board about cancellations. See page 63, lines 19 through 22, and the Committee Comment at page 64 lines 23 through 25.

**20. Employment (2-605).**

House Bill 303 would clarify employment of nonlicensees. See page 64, lines 38 through 44, and the Committee Comment beginning at line 45 on page 64 through line 7 on page 65.

**21. Fees (2-606).**

Since the State Board charges the same fees regardless of residency, current provisions for resident and nonresident fees are proposed for deletion. See the Committee Comment at page 65, lines 22 through 25.

**22. Sunset Provisions (2-702).**

House Bill 303 would make the electricians act subject to the Maryland Program Evaluation Act. See beginning at line 35 on page 65 through line 2 on page 66 and the Committee Comment at page 66, lines 3 through 8.

**23. Transfers.**

Art. 56, § 534A is proposed for transfer to the Session Laws since the Attorney General has opined that the section is unenforceable. Once proposed § 2-301 becomes effective, Art. 56, § 534A will be unnecessary. See the General Committee Comment beginning at line 42 on page 66 through line 4 on page 67.

Parts of current Art. 56, § 538 that protected licensees on July 1, 1985, also are transferred to the Session Laws. See the General Committee Comment at page 67, lines 5 through 8.

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